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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 4, 1996

John Staurulakis, Inc.
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Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D. C. 20554

DOCKET FILE COPY ORIGINAL

In the Matter of

Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers

CC Docket No. 95-185

Attention: Common Carrier Bureau

The accompanying comments, prepared by John Staurulakis, Inc. (JSI), are in response to the Notice of Proposed Rulemaking, released on January 11, 1996, and the Order and Supplemental Notice of Proposed Rulemaking, released on February 16, 1996, in the above-referenced docket.

Any questions concerning this filing may be directed to JSI.

Sincerely,

Michael S. Fox

Michael S. Fox
Director, Regulatory Affairs

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Enclosures

cc: Janice Miles, Common Carrier Bureau, 1919 M Street, Room 544
International Transcription Services, 2100 M Street, Suite 140

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	**CC Docket No. 95-185**
	)	
Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers	)	**CC Docket No. 94-54**

Comments of John Staurulakis, Inc.

John Staurulakis, Inc. (JSI) hereby files these comments in response to the January 11, 1996 Notice of Proposed Rulemaking issued by the Federal Communications Commission (Commission) in the above-captioned matter.[1] In the NPRM, the Commission requests comments on its tentative conclusions relative to compensation issues with respect to traffic between local exchange carrier (LEC) customers and the customers of interconnected commercial mobile radio service (CMRS) providers. Specifically, the Commission tentatively concludes "that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a 'bill and keep' basis (*i.e.,* both the LEC and CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities

[1] See In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, and Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers, CC Docket No. 94-54, FCC 95-505, released January 11, 1996 (NPRM).

provided by LECs to connect to LEC and CMRS networks should be set based on existing access charges for similar transmission facilities."[2]

JSI is a consulting firm specializing in independent telephone company cost consulting and regulatory services to more than 150 telephone companies in the United States. As such, JSI must rely upon the Commission's rules and must follow these rules when advising our clients. Accordingly, because the issues raised in the NPRM have the potential to materially affect our clients, JSI is an interested party in this proceeding.

JSI is concerned that some of the tentative conclusions reached within the NPRM are neither in the public interest nor advisable. JSI is especially concerned about the tentative conclusion that "in order to ensure the continued development of wireless services as a potential competitor to LEC services, (the Commission) must move expeditiously to adopt interim policies governing the rates charged for LEC-CMRS interconnection."[3]

JSI believes it is important that the Commission not undertake any "piece-meal" or "band-aid" fixes to the existing interconnection arrangements, but rather address this critical issue in the manner in which its importance merits - a full comprehensive review of interconnection policies. To rush into interim solutions is ill advised. It could also result in undesirable, and unintended, consequences, particularly with regard to the Commission's long-standing universal service objectives.

Cellular service is not a new service. Further, interconnection with the public switched telecommunications network has been around for over ten (10) years. Despite

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2 Id. at para. 3.

3 Id.

any deficiencies in the existing interconnection arrangements (assuming these deficiencies exist), cellular service has grown phenomenally each year. According to the U.S. Department of Commerce, Bureau of Census, operating revenue generated from cellular and radio telephone operations increased nearly thirty percent (30%) annually from 1990 to 1993. Given the onset of PCS, we fully expect wireless growth to continue in a similar fashion in the future. These growth rates have not only contributed to the robust health and growth of the cellular industry, they have also far exceeded even the most optimistic expectations.

Also, the tentative conclusion that "a 'bill and keep' arrangement represents the best interim solution with respect to terminating access from LEC end offices to LEC end-user subscribers..."[4] seriously concerns JSI. First, as the NPRM acknowledges, "LECs typically terminate many more calls that originate from the cellular network than an interconnecting cellular network terminates LEC-originated calls."[5] It is specifically noted that "(a)ccording to Pacific Telesis, 94% of LEC-CMRS exchange traffic terminates on its (the wireline) network and 6% terminates on wireless networks, and wireless traffic is growing at about 20% per year in California..."[6] Because of this admitted imbalance of traffic, the prescription of a bill and keep arrangement for the switching and termination of traffic is inherently unfair to the wireline LECs. Also, due to the upward pressures that such a policy will have on local service rates, JSI believes

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4 Id. at para. 60.

5 Id. at para. 14.

6 Id. at para. 40, footnote 60.

that a bill and keep arrangement for the switching and termination of LEC-CMRS traffic is contrary to the public interest.

Interconnection policies, in general, are of particular importance to small LECs. It is through such policies that a typical small LEC derives as much as 75% of its regulated revenue. Therefore, alteration of an existing policy, or prescription of interim measures, should not be undertaken without a thorough investigation of the impact such a policy would have on the ability of the incumbent LEC to maintain universal service and provide local service rate stability.

Compensation for terminating traffic on an interconnected carrier's network has long been an accepted principle in the telecommunications industry. This is consistent with the notion that the cost causer should pay. It is also consistent with the notion that there is benefit to having a call terminated and that costs are incurred in terminating calls.

A bill and keep arrangement, as suggested within the NPRM, not only departs from the notion that the cost causer should be the cost payer, but also in the instance where traffic is significantly imbalanced, as it is in this situation, results in promotion of uneconomic decisions by the carriers. Further, it will provide incentives for arbitrage on the part of these carriers.

Even if some economic theory could suggest there is no economic cost of switching and terminating traffic for off-peak periods, this is an irrelevant point, fashioned by those parties which stand to gain financially from a policy of bill and keep. A bill and keep arrangement is totally inconsistent with the notion that the cost causer (*i.e.*, the carrier that benefits) should pay the costs caused. Such a policy will also result in inappropriate pricing signals. The nature of the business of rural LECs is to provide local and access telecommunications services. This proposal suggests that a significant portion of the LEC core business should be valued at zero. JSI strongly disagrees. Furthermore, the Telecommunications Act of 1996 indicates that local call termination has value and should be priced to reflect each carrier's respective underlying costs, and not without regard to universal service implications.[7]

Implementation of a bill and keep policy for LEC-CMRS interconnection, by its very nature, imposes costs, heretofore recovered from carriers, on the customers of the local LEC. Fostering a policy of bill and keep, even as an interim measure, in those situations where it is acknowledged that traffic is consistently and dramatically out of balance, sends the wrong economic signals by encouraging over consumption of LEC inputs, to the detriment of the incumbent LEC's customers. Such a policy effectively promotes the idea that there is no value gained by CMRS providers in being able to utilize the switching and terminating facilities of the LECs. This is simply false and should not even be considered. Obviously, if the CMRS providers did not have the opportunity to utilize the switching and terminating facilities of the LECs, they would be forced to buy and construct these facilities themselves - at considerable cost. Therefore, to effectively place no value on these terminating minutes ignores the reality of the marketplace.

A bill and keep policy would also provide an incentive for carriers to artificially promote originating traffic. The terminating carriers (in this case the LECs) would have

[7] See Telecommunications Act of 1996, Secs. 252(d) & 254.

no choice but to recover these costs through increased local rates. This would result in the LEC's end users being required to pay for these costs through these higher local rates, even though they are not the cost causers. This is especially disconcerting to small, rural LECs because these companies typically have limited alternative revenue sources from which to recover these costs. Unlike the Regional Bell Operating Companies, these companies also lack the economies of scale to absorb such costs through broader cost containment efforts. Further, since local rates of small LECs are typically flat rated, the LEC cannot recover these costs through stimulation of its originating traffic. The small, rural LEC will have no choice but to recover these costs through increased local rates or, alternatively, be forced to implement local measured service rate structures to offset loses incurred through terminating compensation.

In seeking comments on the appropriate recovery of costs in excess of long run incremental costs, the NPRM acknowledges that carriers' other service offerings are generally priced to recover some portion of shared costs and overheads.[8] It is totally appropriate that LEC-CMRS interconnections should be treated similarly. These services should be required to contribute a reasonable share to the recovery of shared costs and overheads in order to allow the Commission and the carriers to continue to foster long-standing universal service objectives; objectives that were reaffirmed in the recently passed Telecommunications Act of 1996.

JSI is also concerned with the NPRM's tentative conclusion that an interim pricing approach should be adopted quickly and, therefore, a bill and keep solution

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[8] Id. at para. 50.

appears to be the most workable[9]. JSI's experience is that "interim" fixes often become *de facto* long term solutions. Because a bill and keep solution could result in significant upward pressure on the local rates of small, rural telephone companies, such a policy is clearly not in the public interest. The public would be better served with a continuation of the policy of cost-based interconnection rates; at levels that include a contribution to the shared costs and overheads and not without regard to universal service considerations. Such a policy is not only balanced and fair with respect to both the LECs and CMRS providers, but it will also allow the Commission to continue to foster its universal service objectives. In light of the myriad of changes and pressures impacting the telecommunications industry, it is important that the Commission not undertake any action that will unnecessarily place undue upward pressure on local rates.

WHEREFORE, JSI respectfully request the Commission to take such action on the NPRM in a manner consistent with these comments. Specifically, JSI asks the Commission to not "piece-meal" this very important issue, but rather address LEC-CMRS interconnection arrangements in a full comprehensive proceeding. Also, JSI strongly believes that even an interim bill and keep solution would be ill advised and contrary to the public interest. The Commission cannot decide this issue without taking into consideration broad universal service implications. It is important that the Commission not rush to judgment and risk undue public harm with respect to the LECs' ability to continue to offer affordable, universally available local telephone service.

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9 Id. at para. 58.

Respectfully submitted,

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